

**NorthMet Project Tribal Consultation Meeting to Discuss Sieve List**  
**9:00 AM – 4:00 PM, February 6, 2012**  
**Fond du Lac Natural Resource Management Division Building**  
**DRAFT February 16, 2012**

**Attending Parties:**  
See attached table of attendees

**Meeting Facilitators:**  
Nancy Schuldt, Fond du Lac

**Welcome and Introductions:** Nancy Schuldt

**Purpose of Meeting:** Nancy Schuldt

The purpose of this meeting is to further discussions with the Fond du Lac, Grand Portage, and Bois Forte Bands concerning the NorthMet Project. It was agreed to create a Sieve List, which would be used to track unresolved Tribal issues and comments. Since the June 23<sup>rd</sup> tribal consultation meeting, the Sieve List has been populated with various topics and specific items. We plan to provide a summary and discussion of the status and progress for the development of these items as they pertain to the Supplemental Draft Environmental Impact Statement (SDEIS) process. At the conclusion of this meeting, we hope to have a better understanding of the Tribal perspective on the various issues and a mutually acceptable direction forward.

**Proposed Changes to the Meeting Agenda:** Nancy Schuldt

It was requested that financial assurance be taken off of the agenda and GoldSim added to the 2:45 pm discussion, which already included seepage capture system, groundwater in downgradient wetlands, mercury issues, and baseline data as topics. Meeting attendees agreed to these changes.

**Project Update:** Tom Hingsberger, U.S. Army Corps of Engineers

- SDEIS Status & EIS Development Schedule

Chapters 1 through 4 are currently in development. Chapters 1 through 3 have been reviewed by the Co-leads and the Co-leads have provided comments to ERM. Co-lead comments for Chapter 4 are currently being submitted to ERM. Nancy Schuldt asked if the cooperating agencies could review Chapters 1 through 4 once ERM has integrated the Co-lead comments. **Tom Hingsberger stated that he would have to discuss this with the Managing Sponsors.**

According to the last Project management tracking meeting, the PSDEIS is expected to be available for Co-lead Agency review at the end of May 2012 and Cooperating Agency review at the end of July 2012. It is expected that the SDEIS will be published at the end of September 2012.

The IAP process is almost complete. The Waste Characterization Data Package is being reviewed for approval.

Margaret Watkins stated that she was disappointed that the Cooperating Bands and Tribal Staff have not been allowed greater involvement in various work groups, meetings, and review of associated materials. She requested information regarding why the Cooperating Bands have not been able to participate in these efforts and reminded the meeting attendees that Colonel Price and the Bands' Chairs agreed that the Cooperating Bands would be allowed to participate. She thought that it was very clear that they had established a process through which Brad Johnson would be made aware of meetings and work groups and would allow the Cooperating Bands and Tribal Staff an opportunity to decide whether they would like to be included in those meetings and work groups. She stated that there seems to be a lack of communication between Brad and the various Co-lead staff. This process would be discussed in the CCP document, however, until that document is completed, the Cooperating Bands have to be allowed to participate. Margaret said that she is unclear why decisions that are made by upper management are not executed and was disappointed that Co-lead staff at the meeting were not able to respond to these issues.

Bill Johnson noted that the CCP revision process is underway, and stated that some of the meetings that occur are between only two or more individuals and are executed in a more informal way that does not allow extensive notice of the meetings/discussions.

Nancy Schuldt appreciated Bill's response, but stated that for the cooperating Bands to be fully involved in the process they need to have early access to various information. By not being fully involved, the Bands are at a disadvantage and this will lead to more questions and further delay in the future.

Tim Dabney said that the CCP will just formalize the agreement reached with the tribal chairs and that he talked to Mary McConnell (MDNR) and she agreed about participation across the board.

Bill Johnson commented that the MDNR is open to considering access to information in the interim.

**Tom Hingsberger and Managing Sponsors will discuss the Band's involvement in the Waste Characterization IAP work group and how the Cooperating Bands can be better informed for their participation in future meetings, workgroups, and review of materials.**

Numerous individuals communicated difficulty accessing the Barr website. **Bill Johnson will follow-up with Barr regarding accessibility.**

John Colman asked about the QA/QC procedure that is being developed for the modeling that will be produced by Barr. John said that they have an interest in being involved and offered his experience and expertise.

| <b>Action Items<sup>1</sup></b>  |
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| Tom Hingsberger to discuss if the cooperating agencies could review Chapters 1 through 4 once ERM has integrated the Co-lead comments with the Managing Sponsors.  |
| Tom Hingsberger and Managing Sponsors will discuss the Band's involvement in the Waste Characterization IAP work group and how the Cooperating Bands can be better informed for their participation in future meetings, workgroups, and review of materials. |
| Bill Johnson to follow-up with Barr regarding accessibility to the Barr website.   |

- Updates to Action Items from previous meetings

Tom Hingsberger distributed metadata from Barr to Esteban concerning Barr's mine site contour map. Esteban qualified the request to mean metadata prior to the new wells. **Esteban to review data to confirm it is the data he requested.**

The Bands inquired about the availability of the draft thematic comment responses to the 2009 DEIS for their review. **The Co-leads will confirm whether or not the draft thematic responses are in the appropriate stage to be distributed to the Bands.**

| <b>Action Items</b>  |
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| Esteban to review meta data received from Tom Hingsberger to confirm it is the data he requested.                                  |
| The Co-leads will confirm whether or not the draft thematic responses are in the appropriate stage to be distributed to the Bands. |

### **Status of Treaty Rights Litigation in the 1854 Ceded Territory**

The Cooperating Bands discussed the 1854 Treaty and how it has and will be implemented. Grand Portage and Bois Forte have resolved their litigation and developed co-management protocols. Fond du Lac expects that litigation will end in the near future and expects their co-management protocols to be finalized and implemented at that time. Even though Fond du Lac's protocols are not finalized, there is co-management occurring at this time.

The Bands discussed their regulatory authority as it relates to water and air. The Bands have Federally delegated authority and approved water quality standards. NEPA will need to disclose predicted impacts to downstream resources, including Lake Superior. The impaired water status of waters where impacts are predicted to occur was discussed.

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<sup>1</sup> Action items identified during the conversations are bolded. All action items for each topic are listed in a table following the topic text.

## Sieve List Item Updates:

- Underground Mining

The Draft Underground Mining Alternative Position Paper was discussed. Esteban Chiriboga discussed his concerns with the Position Paper. He pointed to PolyMet's PowerPoint presentation to investors and his opinion that it intended to convey optimism of potentially richer ore bodies and future project potential. He stated that this was a conflicting message from what is being communicated during this Project and within the Draft Position Paper. Esteban requested that the Bands be involved in its revision and development. Esteban voiced concerns about the content of the paper and asked if this was the right venue to discuss these technical concerns. It was determined that having a discussion with technical staff not present at the meeting was more appropriate. **Andrew Bielakowski will send out a Doodle Poll to schedule a meeting with technical staff and the Cooperating Bands and Tribal Staff to discuss the Draft Underground Mining Alternative Position Paper. The Bands will send an email to the Co-leads summarizing their comments prior to the meeting.**

| Action Items   |
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| Andrew Bielakowski to send out a Doodle Poll to schedule a meeting with technical staff and the Cooperating Bands and Tribal Staff to discuss the Draft Underground Mining Alternative Position Paper. |
| Cooperating Bands and Tribal Staff to send Draft Underground Mining Alternative Position Paper comments to the Co-leads prior to meeting.  |

- Socioeconomics

Comments on the IMPLAN model have been reviewed by the Co-lead Agencies and were submitted to Dr. Skurla (UMD) for his review. John Coleman and Esteban Chiriboga stated that they thought that the socioeconomic work group has been functioning well.

- Cumulative Effects

The approach for the cumulative impacts chapter of the PSDEIS is currently under development. The USACE is currently collecting GIS layers from various data sources to be used in the analysis. The Bands have requested a cumulative effects analysis for the entire 1854 Ceded Territory and an analysis of specific resources that occur in the APE. The Bands stressed the importance of looking at effects at the ecosystem level, while others should be at the species level (i.e., wild rice, moose, etc.) and acknowledged that a decision regarding this approach has not been made. **It was requested that Brad Johnson set up a meeting to discuss the cumulative effects analysis, including the Cooperating Bands and USFWS.**

Nancy Schuldt stated that the 2011-2012 Impaired Waters List includes numerous biological communities that may be impacted by the Project and explained that this is why she had previously requested that example EIS be reviewed. **She would like the state agencies to consider whether impaired waters should be more carefully considered and to identify potential impacts to biological communities in light of the Impaired Waters List. This should be evaluated as part of**

**a risk assessment and disclosed in the EIS.**

| Action Items   |
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| Brad Johnson to set up a meeting to discuss the cumulative effects analysis, including the Cooperating Bands, and USFWS.                             |
| State agencies to decide if impacts to biological communities identified in the Impaired Waters List should be evaluated as part of the EIS process. |

- Biodiversity

Nancy Schuldt noted that she had reviewed EIAs from Australia and stated that they had good examples for how to discuss biodiversity. She stated that Rio Tinto had shared some of their internal resources they use for biodiversity, which included an internal policy and group diversity profile and **plans to distribute those resources to meeting participants**. She also stated that Fond du Lac would be willing to pay the license fee for the MDNR's special species database, if it would provide useful information and analysis for the Project.

Nancy commented that at the quarterly state mining meetings, there have been areas of high biodiversity identified near the Project area. The USFS looks at biodiversity on a landscape level.

**The USEPA and Nancy Schuldt stated that they would search for examples of how biodiversity has been discussed in other EISs.**

| Action Items  |
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| Nancy Schuldt to distribute biodiversity resources to meeting participants, including the documents from Rio Tinto. |
| USEPA and Nancy Schuldt to search for examples of how biodiversity has been discussed in other EISs.                |

- Climate Change

The updated GHG inventory was discussed. **The Co-leads will confirm that the updated GHG inventory is being considered in the SDEIS.**

Bill Johnson stated that the climate change analysis section, for issues such as GHG, carbon sequestration, etc., will be addressed in the SDEIS using quantitative data, while climate change overall will be discussed in a qualitative way. Project specific modeling will not be done.

Joy Wiecks discussed the issue of fibers as it pertained to air quality. She stated that Fond du Lac feels that one year of post-operation monitoring is not adequate. She has suggested language be added to any permit or authorization conditions that "At least one year of post-operation monitoring of fibers will be conducted. After that time, the results will be reviewed and compared to criteria or a standard to be set by the MN Dept of Health and the MPCA. The decision will then be made as to whether

further monitoring will be required.” They are still deciding who or what agency(ies) would be determining any need for additional monitoring and will let the Co-leads know once determined. She suggests that this language be added to the SDEIS.

Margaret Watkins stated that fibers are monitored in Hoyt Lakes. Fibers monitoring is an area of concern and should be considered.

| Action Items   |
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| Co-leads to confirm that the updated GHG inventory is being considered in the SDEIS. |

- Water Treatment and Discharges

Margaret Watkins requested that the discussion of waste water and discharges should be done using the same units of measure to avoid confusion.

Esteban Chiriboga stated that it is not as important what the performance of the WWTF or seepage capture is modeled as, rather it is important what is achievable. Bill Johnson stated that these types of performance standards have not been received yet.

The question was raised whether or not PolyMet is responsible for sulfate discharges from cell 2W. **The Co-leads will determine if PolyMet is responsible for sulfate discharges from cell 2W. The Co-leads will also determine where the wild rice standard criteria are to be applied for disclosure in the SDEIS.**

| Action Items  |
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| Co-leads to determine if PolyMet is responsible for sulfate discharges from cell 2W.        |
| Co-leads to determine where the wild rice standard criteria are to be applied in the SDEIS. |

- Seepage Capture System

**The Co-leads will follow-up with the Cooperating Bands and Tribal Staff regarding the seepage capture rate that can be achieved.**

| Action Items   |
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| Co-leads will follow-up with the Cooperating Bands and Tribal Staff regarding the seepage capture rate that can be achieved. |

- Groundwater Downgradient in Wetlands

John Coleman discussed topics such as well-nests, groundwater level, and groundwater flow data, and use of groundwater level and gradient data in groundwater flow model. He asked if the meeting was

the appropriate venue to discuss these technical topics. **Tom Hingsberger suggested scheduling a meeting with the Cooperating Bands and Tribal Staff to discuss these topics.**

| Action Items   |
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| Tom Hingsberger to schedule a meeting with the Cooperating Bands and Tribal Staff to discuss technical water issues (meeting to also include the GoldSim model sensitivity analysis parameters). |

- GoldSim Modeling

John Coleman and Esteban Chiriboga discussed concerns about the sensitivity analysis of GoldSim and asked if the meeting was the appropriate venue to discuss this topic. **Tom Hingsberger suggested scheduling a meeting with the Bands and technical staff to discuss this topic.** The Co-leads and PolyMet are currently developing quality assurance plans for the calibration of the GoldSim model. **Tom Hingsberger will provide the draft Co-lead QA/QC procedure to the Cooperating Bands and Tribal Staff.**

| Action Items  |
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| Tom Hingsberger to schedule a meeting with the Bands and technical staff to discuss topics the GoldSim model sensitivity analysis of parameters (meeting to also include groundwater downgradient in wetlands). |
| Tom Hingsberger to provide the draft Co-lead QA/QC of GoldSim model calibration procedure to the Bands.   |
| Tom Hingsberger to determine status of MODFLOW data files for distribution to the Cooperating Bands and Tribal Staff and to distribute GoldSim data files when available.                                       |

- Mercury Issues

Nancy Schuldt voiced concern regarding item 034 on the sieve list being marked at “complete”. She stated that there are fatal flaws in Barr’s 2010 Sulfate, Methyl mercury, and Mercury Monitoring Report and would like to see internal notes regarding agency review of the report. She noted that the report is being used in the air risk assessment and would like to understand how else the report is specifically being used. She also noted that she is developing comments on the report to be submitted to the Co-leads. **The Co-leads will provide information to the Cooperating Bands and Tribal Staff regarding how the report will specifically be used and provide state agency comments regarding their review of the report.**

Bill Johnson stated that the Co-leads have been discussing mercury further, especially after the last EPA/cooperating tribal agency call. The Co-leads are considering providing a comprehensive update on the treatment of mercury in the SDEIS; how this is to be done has not been determined.

- Baseline Data

| Action Items  |
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| Co-leads to provide information to the Bands regarding how Barr's 2010 Sulfate, Methyl mercury, and Mercury Monitoring Report will specifically be used and provide state agency comments regarding their review of the report. |

- **Other Issues/Wrap-up:**

The next sieve list meeting will be scheduled in mid-March. Andrew Bielakowski will send out a Doodle Poll.

| Action Items   |
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| Andrew Bielakowski to send out Doodle Poll for next meeting in mid-March |